

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT



Application No. 13388 of Dr. George O. and Blanka H. Krizek, pursuant to Sub-section 8207.2 of the Zoning Regulations, for a special exception under Sub-paragraph 3101.410 to use the subject site as accessory automobile parking spaces in an R-3 District at the premises 2109 Bancroft Place, N.W., (Square 2531, Lot 2).

HEARING DATE: November 19, 1980

DECISION DATE: November 19, 1980 (Bench Decision)

FINDINGS OF FACT:

1. The subject property is located on the north side of Bancroft Place between Phelps Place and Connecticut Avenue, N.W. and is known as premises 2109 Bancroft Place, N.W. It is in an R-3 District.

2. The subject site is 108.43 feet deep and twenty-five feet wide. At the rear of the site is a two car garage used by the applicants. To the east of the site is a fifteen foot public alley followed by St. Margaret's Episcopal Church. To the north of the site is a fifteen foot public alley. To the south of the site is Bancroft Place. To the west of the site is the residence of the applicants. Within the residence is the doctor applicant's office.

3. The subject site has seven parking spaces which run perpendicular to the applicant's residence. The spaces are used for parking by the patients of the applicant and by two neighbors. On certain occasion the spaces are used by the congregation of St. Margaret's Church.

4. The parking spaces are marked off by posts. The surface is grass. Entrance and exit to the spaces are through the fifteen foot public alley to the east of the site that runs between Bancroft Place and Leroy Place. The side facing Bancroft Place is landscaped.

5. The applicants purchased their residence at 2111 Bancroft Place and the subject site in 1978. They considered the property as one lot. The applicants testified that the purchase was made for a residence and a doctor's office. The existence of the parking spaces was conducive to their purchase of both lots. The applicants testified that they believed the use of the parking spaces was an amenity that went with the purchase of the residence even though they paid separate real

estates, residential and commercial, for the residence and the subject lot.

6. In October 1979 the applicants were advised they were using the parking spaces illegally since there was no Certificate of Occupancy issued for such use. The applicant testified that she was advised in the Zoning Administrator's office that no such Certificate of Occupancy had been issued for the subject site in forty years.

7. Pursuant to the Zoning Regulations, the application was referred to the Department of Transportation for its review and report. No report was received at the time of the public hearing.

8. The owner of the adjacent property at 2113 Bancroft Place recommended that the application be approved. The neighbor by letter dated November 7, 1980, noted that to her knowledge the parking spaces had been used for the last eight years by the prior owners and that the spaces served as a great convenience to several neighbors and to St. Margaret's Church.

9. Another letter of record stated that the writer was a communicant and member of St. Margaret's Church for over forty years and that he was familiar with the several owners of the subject property. He was personally aware that the church staff had an arrangement with the owners to park on the subject site. He recommended that the application be approved.

10. A representative of St. Margaret's Church testified at the public hearing in support of the application on the grounds that the present owner and prior owners were good neighbors, kept the property in good appearance and extended the use of the parking spaces to the Church's needs.

11. Advisory Neighborhood Commission 1D appeared at the public hearing and testified in favor of the application on the grounds that the majority of the neighbors approved and that the ANC always favored off-street parking facilities that did not affect adversely neighboring properties. The Board concurs.

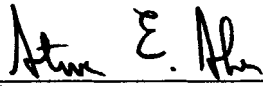
12. There was no opposition to the application at the public hearing. There was one letter of record from a party on Connecticut Avenue who opposed the application on the grounds that the applicants were in the parking space rental business. The applicant stated that the subject property already had seven parking spaces and a two-car garage on the site which was more than four times the parking of any other residence on the block. The opponent also expressed concern that the undeveloped embankment fronting the lot on Bancroft Place might eventually be used for parking. The Board appreciates the concerns of the opponent.

(e) No use other than to service the doctor's patients, neighbors and St. Margaret's Episcopal Church shall be permitted.

VOTE: 5-0 (Theodore F. Mariani, Charles R. Norris, Connie Fortune, Douglas J. Patton and William F. McIntosh to grant).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:


STEVEN E. SHER
Executive Director

FINAL DATE OF ORDER: 22 DEC 1980

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT"

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS, AND INSPECTIONS.

The Board finds that based on the evidence of those in support of the application, including neighbors and the ANC, that the said parking spaces, are used restrictively by the patients, some individual neighbors and the Church. It's history of use over forty years is not that of a commercial parking lot. As conditioned hereinafter the lot shall be limited to its present size and uses.

CONCLUSIONS OF LAW AND OPINION:

Based on the record the Board concludes that the applicant has complied with the requirements of Sub-paragraph 3101.410 and that the special exception requested can be granted. The record reflects that the use of the parking spaces predated the effective date of the current 1958 Zoning Regulations. There appears to have been no history of complaints from the adjoining property owners. The number of spaces provided is small. The use of the lot is limited. It serves a doctor's patients, some neighbors and the Church. Its use is not objectionable because of noise, traffic or other objectionable conditions. It is the Board's opinion that the failure to obtain a Certificate of Occupancy was due more to inadvertance than malice. The Board further concludes that the special exception can be granted as in harmony with the general purpose and intent of the Zoning Regulations and will not tend to affect adversely the use of neighboring property. Accordingly, it is ORDERED that the application is GRANTED SUBJECT to the following CONDITIONS:

- (a) All areas devoted to driveways, access lans, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface.
- (b) Bumper stops shall be erected and maintained for the protection of the applicant's residence.
- (c) No vehicle or any part thereof shall be permitted to project over an lot or building line or on or over the public space.
- (d) All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.